

## REMARKS

Claims 85-128, of which claim 114 is currently amended, are pending in this application for the Examiner's review and consideration. Claim 114 has been amended to correctly its dependency.

### *Claim rejections - 35 U.S.C. §112*

The claims were rejected under 35 U.S.C. 112, first paragraph as failing to comply with the enablement requirement for the reasons set forth on page 2 of the Office Action. Applicant respectfully traverses.

The Examiner invited Applicant to indicate the location in the specification, including by drawings, of the support for the height adjustment mechanism. Applicant indicates that a means for adjusting the "at least one of said at least one inlet and said at least one outlet" as claimed in claim 85, e.g., by means of a screw mechanism, is exemplified in Example 1 (paragraphs 0144-0146) and in Figure 10:

"A screw mechanism 116 allows adjustment of the height of opening 118 of second tube structure 110 with respect to skin-facing opening 108 of treatment zone 107." (lines 14-19, paragraph 0146)

Figure 10 depicts a preferred embodiment by exemplifying an applicator having a screw mechanism, wherein opening 118 is adjustable in height relative to treatment zone 107. Though this feature is not explicitly disclosed in the written description, it would be clear to one of skill in the art from Figure 10 that rotation of screw mechanisms 116, does not affect the position of housing 100 with respect to the treatment zone.

Furthermore, Applicant has not only constructively reduced the invention to practice, Applicant has actually reduced the invention to practice. The device corresponding to Figure 10 has been made and can be presented to Examiner, if required. In this regard, enclosed are three photographs of the device that has been made according to the present invention: Figure A is a view of the device; Fig. B shows the second tube retracted and Fig. C shows the second tube extended. The extension and retraction of the second tube is achieved by rotating the screw mechanism.

In addition, Applicant used the device of the invention for employing the method of claims 117-128, as disclosed in Wounds (2004), volume 16(6), pages 201-205. In this paper,

published after the Filing Date of the present application and reporting on the utility of the claimed invention, the inventor demonstrates the use of this device for treating burn wounds in laboratory animals for applying a continuous flow of enzymatic solutions over the wounds. The inventor further shows that debridement of the wounds is observed following 2-3 hours of treatment. A copy of this article is enclosed.

Accordingly, since the Specification supports the height adjustment mechanism, and since the applicant's testing confirm this, Applicant respectfully submits that the present application provides sufficient guidance for an artisan in the art to practice the invention as claimed in claim 85. Claims 86-128 are directly or indirectly dependent on claim 85, and recite further features of the claimed applicator. Thus, Applicant respectfully submits that the present application provides sufficient guidance for an artisan in the art to practice the invention as claimed in claims 86-128. In view of the above, Applicant requests that the 35 U.S.C. § 112 rejection of claims 85-128 be withdrawn.

#### ***Claim rejections - 35 U.S.C. §102***

Claim 85 was rejected under 35 U.S.C. § 102(b) as being anticipated by Thomas, for the reasons set forth on pages 3-4 of the Office Action. Applicant respectfully traverses.

Thomas merely teaches an eyecup having at least one inlet and an outlet the ends of which are "fixably inserted in apertures located in sidewall portions of the eyecup" (col. 3, lines 33-39) wherein elastomeric straps 30, 32 fastened to the eyecup hold it in place and may pull the eyecup down over the eye (col. 5, lines 5-11). The height adjustment taught by Thomas does not relate to or enables adjustment of the height of the inlet while the height of the outlet remains fixed. In fact, the height adjustment taught by Thomas requires adjusting the height of the *entire* eyecup including the inlets and outlets affixed thereto. As stated in the Thomas specification, the ends of the inlets and the outlets are *fixed* to the eyecup thereby adjusting the distance between the eye and the ends of the inlets, causes adjustment of the heights of the outlets with respect to the eye (similarly, adjusting the height of the outlets causes adjustment of the height of the inlets):

"[Inlet] members **50, 52** (Fig. 6) which are fixably insertable into apertures **54, 56** located in sidewall portion of the eyecup **10**...Another end member **60**, connected as an outlet to conduit **58**, and including a nipple end **59**, is fixably inserted

in an aperture 61 in a side wall portion of the eyecup 10.”  
(col. 5, lines 30-40)

Thomas does not teach or even suggest height adjustment of *one of* the at least one inlet and the outlet with respect to one another, as claimed in claim 85 of the present invention.

In contrast, claim 85 is directed to an applicator comprising at least one inlet and at least one outlet “wherein an opening *of at least one* of said at least one inlet and said at least one outlet...is height adjustable”. Height adjustment as claimed in claim 85 and as exemplified in Example 1 and in Fig. 10 *does not require a mutual adjustment* of the at least one inlet *and* the at least one outlet, with respect to the skin-facing opening. Rather, by adjusting the height of the at least one inlet, the position of the outlet with respect to the skin facing opening may remain unchanged. Similarly, by adjusting the height of the at least one outlet, the position of the inlet with respect to the skin facing opening may remain unchanged. This feature allows the present applicator to physically conform to a non-smooth skin surface of the subject.

Given such fundamental differences between the applicator of the present invention and the eyecup of Thomas, Thomas cannot anticipate the present claims. Therefore, applicant respectfully requests that the rejection of claim 85 under 35 U.S.C. § 102(b) based on Thomas, be withdrawn.

### ***Claim rejections - 35 U.S.C. §103***

Claims 85 and 86 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Olson in view of Young, for the reasons set forth on pages 4-6 of the Office Action. Applicant respectfully traverses.

Olson is directed to a lavage tip having a shield with an open end facing the wound site. The shield is attached to a fluid tip via an articulating joint which allow an *angular* movement between the shield and the fluid tip. Olson *does not* teach or even suggest means for allowing *height* adjustment of the fluid tip with respect to the tissue.

Young, which merely teaches an irrigator having an inner supply tube positioned within an outer drainage tube wherein the position of the inner tube is preferably *fixed* within the outer tube, fails to address the deficiencies of Olson. Young discloses that the inner supply tube has an annular enlargement “which bears against the end of outer tube” (col. 1. lines 47-50),

wherein adjusting the position of the inner tube such that the annular enlargement is drawn tightly against the opening of the outer tube is required for assembling the irrigator:

“A tube 11 is internally screw-threaded at one end as shown at 12 to receive the screw-threaded end 13 of supply tube 1, and when tube 11 is screwed home, the annular enlargement 5 will be drawn tightly against the end of tube 4, and the parts will be securely clamped together” (col. 2, lines 63-69)

Figure 2 of Young teaches that adjusting the position of the inner supply tube, such that the inner tube is tightly affixed against the end of the outer tube, is required to enable suction through the pores (6) of the at the outer wall of the outer drainage tube.

Thus, not only is there no motivation in Young for height-adjustable inlets or outlets, Young teaches away from this feature by providing an irrigator which requires *fixing*, by a screw mechanism, the position of the inlet and the outlet with respect to one another.

In contrast, claim 85 is directed to an applicator comprising at least one inlet and at least one outlet “wherein an opening *of at least one* of said at least one inlet and said at least one outlet...is height adjustable” with respect to the skin facing opening of the applicator. Claim 86 adds the applicator of claim 85 further a screw mechanism for adjusting said height. Thus, according to claims 85-86 by adjusting the height of the at least one inlet, the position of the outlet with respect to the skin facing opening may remain unchanged. Similarly, by adjusting the height of the outlet, the position of the at least one inlet with respect to the skin facing opening may not be changed.

Accordingly, at least because Olson neither teaches, discloses nor suggests the height adjustable at least one inlet or outlet, and because Young fails to overcome the deficiencies of Olson, The combination of Olson and Young does not disclose the presently claimed invention. Even if combined as described by the Examiner, these references do not provide the present device. Applicant respectfully submits that the rejection of claims 85 and 86 under 35 U.S.C. § 103(a) over Olson in view of Young has been overcome and should be withdrawn.

Claims 86-128 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Olson in view of Young and in further view of Alaluf et al., Thrash et al., and Wallace. Applicant respectfully traverses.

Since Young does not rectify the deficiencies of Olson with respect to claim 85 and since claims 86-128 depend directly or indirectly from claim 85, Applicant respectfully submit that the rejection under 35 U.S.C. § 103(a) of claims 86-128 based on Olson in view of Young and in further view of Alaluf et al., Thrash et al. and Wallace, be withdrawn. Clearly, none of the tertiary references remedy the deficiencies of Colson and Young, so that their addition to the previous combination does not result in the invention defined by those claims.

Accordingly, applicants respectfully submit that the present claims are patentable over the cited references and that entire application is in condition for allowance. Should the Examiner not agree that all claims are allowable, then a personal or telephonic interview is respectfully requested to discuss any remaining issues in order to expedite the allowance of this application.

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Respectfully submitted,



Allan A. Fanucci (Reg. No. 30,256)

**WINSTON & STRAWN LLP**  
**CUSTOMER NO. 28765**  
(212) 294-3311